

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Arquest, Inc.,

Plaintiff

V.

Kimberly-Clark Worldwide, Inc.,

Defendant

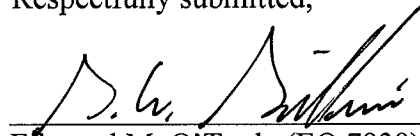
Case No. 07 CV 11202 (CM)

**NOTICE OF MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION OR,  
ALTERNATIVELY, TO DISMISS OR TRANSFER**

**PLEASE TAKE NOTICE THAT** upon the accompanying Declarations of Charles Misun, dated January 2, 2008, and Vicki Margolis, dated January 31, 2008, and the exhibits attached thereto, and upon the accompanying Memorandum of Law and the exhibit attached thereto, Defendant Kimberly-Clark Worldwide (“KCWW”), by its undersigned counsel, will move this Court before the Honorable Colleen McMahon, U.S.D.J., in Courtroom 21B of the United States Courthouse, 500 Pearl Street, New York, NY, at a date and time to be designated by the Court for an order (i) dismissing the Complaint pursuant to Fed.R.Civ.P. 12(b)(2) because there is no personal jurisdiction over KCWW; (ii) dismissing the Complaint in the Court’s discretion under the Declaratory Judgment Act; and/or (iii) transferring the action to the Northern District of Texas to be consolidated with co-pending Civil Action No. 307 CV 2078; and granting such other and further relief as the Court deems just and proper.

Dated: February 4, 2008  
New York, New York

Respectfully submitted,



Edmund M. O'Toole (EO 7939)  
Matthew T. McLaughlin (MM 6241)  
Gregory W. Gilliam (GG 2857)  
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(\**Pro Hac Vice* Admission Pending)

**Attorneys for Plaintiff**  
**Kimberly-Clark Worldwide, Inc.**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**PROPOSED ORDER OF DISMISSAL**

This Court, having considered, **Defendants' Motion to Dismiss for Lack of Personal Jurisdiction or, Alternatively, to Dismiss or Transfer** the action, hereby grants Defendant's motion in part, and dismisses this action. Defendant's request for transfer of the action is accordingly rendered moot.

**SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

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HONORABLE COLLEEN McMAHON  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**PROPOSED ORDER OF TRANSFER**

This Court, having considered, **Defendants' Motion to Dismiss for Lack of Personal Jurisdiction or, Alternatively, to Dismiss or Transfer** the action, hereby grants Defendant's motion in part, and transfers this action to the Northern District of Texas to be consolidated with co-pending Civil Action No. 307 CV 2078. Defendant's request for dismissal of the action is accordingly rendered moot.

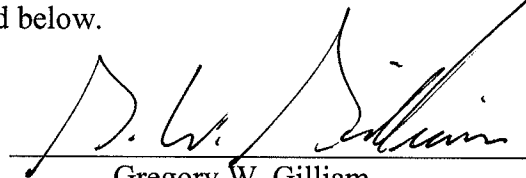
**SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

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HONORABLE COLLEEN McMAHON  
UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>th</sup> day of February, 2008 a copy of the Notice of Motion for Dismissal for Lack of Personal Jurisdiction, or Alternatively, to Dismiss or Transfer along with the supporting Memorandum of Law, and Declarations of Vicki Margolis and Charles Misun with accompanying exhibits, and Proposed Orders were delivered to by hand to all counsel addressed below.

  
Gregory W. Gilliam

TO:

Brian Douglas Siff, Esq.  
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